

Municipal Port Authorities Law

40:68A-29. Short title

This act shall be known and may be cited as the "Municipal Port Authorities Law."

P.L. 1960, c. 192, § 1, eff. Feb. 15, 1961.

40:68A-30. Declaration of public interest and policy

It is hereby found that there exists a lack of adequate port facilities available for public use in municipalities in, along or through the territory of which a navigable river flows and it is hereby declared to be in the public interest and to be the policy of the State to foster and promote by all reasonable means the establishment and development of port facilities in municipalities in, along or through the territory of which a navigable river flows and thereby bettering the public health, welfare and convenience and increasing the availability of proper port facilities which cannot be adequately secured except by exercise of the powers of government. It is the purpose and object of this act to further and implement such policy by

(1) Authorizing municipalities in, along or through the territory of which a navigable river flows by means and through the agency of a municipal port authority, to acquire, construct, maintain, operate, improve or lease public port facilities;

(2) Authorizing the making of charges for the use or the services of such facilities, and providing for the establishment, collection and enforcement of such charges;

(3) Creating as bodies corporate and politic municipal port authorities to have full responsibility and powers with respect to such facilities and the establishment, collection, enforcement, use and disposition of such charges for the use or services of such facilities;

(4) Providing for the financing of such facilities, for the issuance of bonds therefor, and for the payment and security of such bonds; and

(5) Granting to municipalities in, along or through the territory of which a navigable river flows and to such municipal port authorities discretionary powers to provide for public port facilities or a system thereof and obtaining funds to defray the cost thereof from the users of such facilities or from counties or municipalities or from other persons contracting for or with respect to the same.

P.L. 1960, c. 192, § 2, eff. Feb. 15, 1961.

40:68A-31. Definitions

As used in this act, unless a different meaning clearly appears from the context:

(1) "Municipality" shall mean any city, borough, village, town, township, or any other municipality or agency thereof other than a county or a school district;

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(2) "Governing body" shall mean the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(3) "Municipal port authority" shall mean a public body created or organized pursuant to this act;

(4) "Person" shall mean any person, association, corporation, nation, State or agency or subdivision thereof, or other entity, real or artificial, public or private, other than a county or a municipality or a municipal port authority;

(5) "Port district" shall mean the area within the territorial boundaries of a municipality which creates a municipal port authority;

(6) "Port system" shall mean all real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a municipal port authority for the purposes of the municipal port authority, including piers, wharves, docks, bulkheads, slips, basins, anchorage areas, jetties, breakwaters, harbor craft of any kind, buildings, structures, warehouses, terminals, loading areas, plants, vehicular roadways, railroad connections and tracks, yards, sheds and every kind of terminal, storage or supply facility now in use or hereafter designed for use to facilitate shipping, the handling, storage, loading or unloading of freight or cargo at marine terminals, and all other franchises, property and rights therein and appurtenances thereto necessary or useful and convenient in connection therewith;

(7) "Cost" shall mean, in addition to the usual connotations thereof, the cost of planning, acquisition or construction of all or any part of a port system, and of all or any lands, property, rights, rights-of-way, easements and franchises deemed by a municipal port authority to be necessary or useful and convenient therefor, including interest or discount on bonds, cost of issuance of bonds, architectural, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the municipal port authority, prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of said port system or part thereof and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the municipal port authority may determine, and also reimbursements to the municipal port authority or any county, municipality or other person of any moneys theretofore expended for the purposes of the municipal port authority;

(8) "Real property" shall mean lands both within and without the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein;

(9) "Construct" and "construction" shall include acts of construction, reconstruction, replacement, extension, improvement and betterment;

(10) "Bonds" shall mean bonds, notes or other obligations issued pursuant to this act;

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(11) "Facility charges" shall have the meaning given to such term in this act; and

(12) "Local unit" shall mean any municipality which has created a municipal port authority.

P.L. 1960, c. 192, § 3, eff. Feb. 15, 1961.

40:68A-32. Municipal port authority; creation by municipalities; membership; terms; vacancies

The governing body of any municipality in, along or through the territory of which a navigable river flows, may by ordinance create a public body corporate and politic under and pursuant to this act, under the name and style of "the municipal port authority," with the name of said municipality inserted. Said body shall consist of 5 members who shall be appointed by resolution of said governing body as hereinafter provided. A certified copy of each ordinance for the creation of a municipal port authority adopted pursuant to this section shall be filed in the office of the Secretary of State, in the office of the Division of Local Government in the Department of the Treasury and in the office of the clerk of the governing body of the municipality creating the municipal port authority. A certified copy of each ordinance for the creation of the municipal port authority adopted pursuant to this section shall be forwarded also to each authority, board, commission or other public body (herein called the "existing port body") existing or established to exercise powers for port purposes in a port district or other district or area, by or pursuant to act of Legislature of this State alone or in conjunction with the Legislature of another State, the district or area of operation of which includes in whole or in part the area of the port district created by virtue of adoption of such ordinance. After filing of the certified copies of each ordinance for the creation of a municipal port authority as aforesaid, such ordinance shall be published in a newspaper published or circulating in the port district together with a notice stating the fact and date of its adoption and the places where such ordinance has been so filed for public inspection and also the date of the first publication of such notice, and also that any action or proceeding of any kind or nature in any court questioning the validity of the creation or establishment of the municipal port authority shall be commenced within 20 days after the first publication of such notice. If no action or proceeding questioning the validity of the creation or establishment of the municipal port authority shall be commenced or instituted within 20 days after the first publication of such notice and if there shall not have been filed with the clerk of the governing body of the municipality creating the municipal port authority a certified copy of a resolution of any existing port body objecting to the creation or establishment of the municipal port authority within 20 days after the first publication of such notice then all residents and taxpayers and owners of property in the port district and each existing port body and all users of the port system and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceeding, questioning the validity of the creation or establishment of the municipal port authority and said municipal port authority shall be conclusively deemed

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to have been validly created and established and to be authorized to transact business and exercise powers as a municipal port authority pursuant to this act. Thereafter, 5 persons shall be appointed by resolution of said governing body as the members of the municipal port authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. Subsequent appointments shall be for a term of 5 years. Each member shall hold office for the term of appointment and until his successor shall have been appointed and qualified. Vacancies in the membership of the municipal port authority shall be filled by appointment by resolution of the governing body of the local unit for the unexpired term. A certified copy of each resolution appointing any member of a municipal port authority shall be filed in the office of the Secretary of State, but the failure to file any such resolution shall not invalidate any appointment. All members of a municipal port authority shall reside within the territorial area of the local unit.

P.L. 1960, c. 192, § 4, eff. Feb. 15, 1961.

40:68A-33. Officers, agents and employees; civil service

a. Every municipal port authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a chairman and a vice-chairman who shall hold office until February 1 next ensuing and until their respective successors shall have been appointed and qualified. Every municipal port authority may also appoint and employ a secretary and a treasurer and it shall determine their qualifications, terms of office, duties and compensation. Such municipal port authority may also appoint and employ such other agents and employees as it may require and it shall determine their duties and compensation.

b. (1) Whenever the governing body of the municipality which established the municipal port authority has adopted the provisions of Title 11 of the Revised Statutes, all positions and employments of the municipal port authority shall be subject to the provisions of Title 11 of the Revised Statutes, and shall be allocated to appropriate titles by the Civil Service Commission.

(2) The Civil Service Commission shall provide the municipal port authority with a list of the positions and employments allocated to the classified service and the appropriate titles. Within 30 days of the receipt of the list, the municipal port authority shall certify to the Civil Service Commission the names of all those persons employed with the municipal port authority in the allocated positions and employments on the effective date of this act. After passing a qualifying examination, the employees so certified shall be recorded, under the appropriate titles, as having been permanently appointed in the classified service of civil service as of the date of their original appointment. Thereafter, the employees shall be under and subject to the provisions of Title 11 of the Revised Statutes.

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Persons appointed and employed by the municipal port authority after the effective date of this act shall be subject to the civil service examination and appointment procedures of Title 11 of the Revised Statutes.

P.L. 1960, c. 192, § 5, eff. Feb. 15, 1961. Amended by L.1984, c. 116, § 2, eff. Aug. 3, 1984.

40:68A-34. Powers vested in members; quorum

The powers of the municipal port authority shall be vested in the members thereof in office from time to time and 3 members shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the municipal port authority at any meeting of the members thereof by vote of 3 of the members, unless in any case the by-laws of the municipal port authority shall require a larger number.

P.L. 1960, c. 192, § 6, eff. Feb. 15, 1961.

40:68A-35. Reimbursement for expenses; compensation for services

A municipal port authority may reimburse its members for necessary expenses incurred in the discharge of their duties. The ordinance for the creation of a municipal port authority may authorize payment or compensation for services to members of the municipal port authority within such annual or other limitations as may be stated in such ordinance. Any such provision or limitation stated in any such ordinance, may be amended, supplemented, repealed or added by subsequent ordinance, but no reduction of any such limitation shall be effective during the remaining term of any member of the municipal port authority then in office except upon his written consent. No member of any municipal port authority shall receive any compensation of any kind from the municipal port authority except as authorized by this section.

P.L. 1960, c. 192, § 7, eff. Feb. 15, 1961.

40:68A-36. Interest of members, officers or employees in property or contracts

No member, officer or employee of a municipal port authority shall have or acquire any interest, direct or indirect, in the port system or in any property included or planned to be included in the port system or in any contract or proposed contract for materials or services to be furnished to or used by the municipal port authority. Neither the holding of any office or employment in the government of any county or municipality or of the State nor the owning of any other property within the State shall be deemed a disqualification for membership in or employment by a municipal port authority, and members of the governing body of the municipality may be appointed by such governing body and may serve as members of a municipal port authority.

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P.L. 1960, c. 192, § 8, eff. Feb. 15, 1961.

40:68A-37. Removal of members

A member of a municipal port authority may be removed by the governing body of the municipality for incapacity, inefficiency or neglect of duty or misconduct in office or other disqualifying cause and after he shall have been given a copy of the charges against him and afforded a hearing, in person or by counsel, but not sooner than 10 days after receiving a copy of such charges.

P.L. 1960, c. 192, § 9, eff. Feb. 15, 1961.

40:68A-38. Dissolution of municipal port authority; vesting of property in municipality

The governing body of any municipality which has created a municipal port authority pursuant to this act may, by ordinance adopted by the recorded affirmative vote of at least two-thirds of the full membership of the governing body, dissolve such municipal port authority on the condition that (1) if such authority has any debts other than bonds outstanding, the municipality shall appropriate the moneys required to enable all such debts to be discharged in full, and (2) either such authority has no bonds outstanding or all holders of bonds of the municipal port authority have consented to the ordinance. A copy of the ordinance for the dissolution of a municipal port authority pursuant to this section duly certified by the appropriate officer of the municipality which has adopted such ordinance shall be filed in the office of the Secretary of State and shall be transmitted to the Director of the Division of Local Government Services. Upon proof of such filing of a certified copy of the ordinance for the dissolution of a municipal port authority as aforesaid and upon proof either that such municipal port authority had no bonds outstanding at the time of the adoption of such ordinance, or that all holders of bonds of such municipal port authority have consented to such ordinance, the municipal port authority therein referred to shall be conclusively deemed to have been lawfully and properly dissolved and the property of such municipal port authority shall be vested in the municipality adopting such ordinance. A copy of any such certified ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any such action, or proceeding, and shall be conclusive evidence of due and proper filing thereof as aforesaid.

P.L. 1960, c. 192, § 10, eff. Feb. 15, 1961. Amended by L.1982, c. 179, § 1, eff. Nov. 12, 1982.

40:68A-39. Purpose of municipal port authority

The purpose of every municipal port authority shall be the improvement, establishment and development of facilities in its port district for port purposes by or through the acquisition, construction, improvement, maintenance or operation of any and all projects

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and facilities for the improvement and development of such port district for port purposes, or directly related thereto, either directly or by agreement with any county, municipality or person, or in any other manner, as in the judgment of the municipal port authority will provide an effective and satisfactory method for promoting its purposes.

P.L 1960, c. 192, § 11, eff. Feb. 15, 1961.

40:68A-40. Municipal port authority as political subdivision; powers

Every municipal port authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following additional powers:

- (1) To adopt and have a common seal and to alter the same at pleasure;
- (2) To sue and be sued;
- (3) In its own name to acquire, hold, use and dispose of its charges and other revenues and other moneys;
- (4) In its own name but for the local unit, to acquire, rent, hold, use and dispose of other personal property for the purposes of the municipal port authority, and to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements therein, necessary or useful and convenient for the purposes of the municipal port authority, whether subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and to use the same, and is dispose of property so acquired no longer necessary for the purposes of the municipal port authority;
- (5) To grant by franchise, lease or otherwise, the use of any project, facilities or property owned and controlled by it to any person for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon. Any such grant may be upon condition that the user shall or may construct or provide any buildings or structures or improvements on such project, facilities or property, or portions thereof, all upon such terms and conditions as may be agreed upon;
- (6) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;
- (7) To apply for and to accept gifts or grants of real personal property, money, material, labor or supplies for the purposes of the municipal port authority, from any person, county or municipality, including the United States or any agency thereof, and to make and perform such agreements and contracts and to do any and all things necessary or desirable in connection with the procuring, acceptance or disposition of such gifts or grants;
- (8) To determine the exact location, type and character of and all matters in connection with all or any part of the port system which it is authorized to own, construct, establish, effectuate or control and to enter on any lands, waters or premises

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for the purpose of making such surveys, diagrams, maps or plans or for the purpose of making such soundings or borings as it deems necessary or convenient;

(9) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the port system and any other of its properties, and to amend the same;

(10) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any person;

(11) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to make service charges for the use thereof; and

(12) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the municipal port authority or to carry out any power expressly given in this act subject to P.L.1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).

P.L. 1960, c. 192, § 12, eff. Feb. 15, 1961. Amended by L.1975, c. 96, § 15, eff. May 16, 1975.

40:68A-41. Facility charges

Every municipal port authority is hereby authorized to fix, charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "facility charges") in connection with, or for the use, or services of, the port system, and for all services sold, furnished or supplied directly or indirectly through the port system.

P.L. 1960, c. 192, § 13, eff. Feb. 15, 1961.

40:68A-42. Schedule of facility charges

Every municipal port authority may prescribe and from time to time when necessary revise a schedule of all its facility charges. The facility charges fixed, charged and collected shall comply with the terms of any contract of the municipal port authority and may be so adjusted that the revenues of the municipal port authority will at all times be adequate to pay the expenses of operation and maintenance of the port system, including reserves, insurance, improvements, replacements, and other required payments, and to pay the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the municipal port authority or as may be deemed necessary or desirable by the municipal port authority. A copy of such schedule of facility charges in effect shall be a public record.

P.L. 1960, c. 192, § 14, eff. Feb. 15, 1961.

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40:68A-43. Powers of municipalities; finances; ordinance

a. Any municipality shall have power, in the discretion of its governing body, and pursuant to ordinance:

(1) To appropriate moneys for the purposes of the municipal port authority, and to loan or donate such moneys to the municipal port authority in such installments and upon such terms as may be agreed upon with the municipal port authority;

(2) To covenant and agree with the municipal port authority to pay to, or on order of, the authority annually or at shorter intervals as a subsidy for the promotion of its purposes, amounts not to exceed those stated in the ordinance;

(3) To unconditionally guarantee the punctual payment of the principal and interest of bonds of the authority; and

(4) Upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform, and after appropriation of the moneys necessary, if any, for such performance, to covenant and agree with the authority to do and perform that act or thing and concerning the time, manner and other details of the action or performance.

b. Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on the bonds, executed in the name of the municipality and on its behalf by the officer designated in the ordinance authorizing such guaranty, and the municipality shall thereupon and thereafter be obligated to pay the principal of and interest on the bonds in the same manner and to the same extent as in the case of bonds issued by it. Any guaranty of bonds of the authority and any ordinance authorizing the guaranty is subject to all statutory or other debt limitations including particularly any limitation or requirement under or pursuant to the "Local Bond Law" (N.J.S. 40A:2-1 et seq.), and the principal amount of bonds guaranteed pursuant to the ordinance shall be included in the gross and net debt of the municipality for the purpose of determining the indebtedness of the municipality under or pursuant to that law. Any payment made by a municipality pursuant to a guaranty shall be considered "debt service" for purposes of the municipal spending limitations in P.L.1976, c. 68, s. 3 (C. 40A:4-45.3).

c. Every municipality which shall make any contract, covenant or agreement with an authority or pledge to an authority pursuant to this section is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform the same and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of the municipality. Every authority is hereby empowered to accept, and make and enter into, any of the contracts, covenants, agreements or contractual provisions referred to in this section and is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform the same. The contract, covenant, agreement or pledge, and any instrument making or evidencing the same, may

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be pledged or assigned by the authority to secure its bonds and thereafter may not be modified except as provided by the terms of that instrument or by the terms of that pledge or assignment.

P.L. 1960, c. 192, § 15, eff. Feb. 15, 1961. Amended by L.1981, c. 547, § 1.

40:68A-43.1. Annual budget, and financial obligations and leases, sales or dispositions of realty; approval of local finance board

In accordance with rules and regulations which the Local Finance Board is hereby authorized to adopt, municipal port authorities created pursuant to P.L.1960, c. 192 (C. 40:68A-29 et seq.) are subject to the following provisions:

(a) Every authority shall be required to submit an annual budget to the Local Finance Board for approval.

(b) The issuance of any obligations of an authority, agreements regarding municipal guaranties of authority bonds, financing agreements entered into by an authority, and all leases, sales or dispositions of real property made by an authority shall be subject to the approval of the Local Finance Board.

P.L. 1981, c. 547, § 3.

40:68A-44. Authority to issue bonds; bond resolution

For the purpose of raising funds to pay the cost of any part of its port system or for the purpose of funding or refunding any bonds, a municipal port authority shall have power to authorize or provide for the issuance of bonds pursuant to this act, by a resolution (in this act sometimes referred to as "bond resolution") which shall:

(1) describe in brief and general terms sufficient for reasonable identification the port system or part thereof (in this act sometimes called "project") to be constructed or acquired, or describe the bonds which are to be funded or refunded (if any);

(2) state the cost or estimated cost of the project (if any); and

(3) provide for the issuance of the bonds in accordance with section 17 of this act.

P.L. 1960, c. 192, § 16, eff. Feb. 15, 1961.

40:68A-45. Issuance of bonds

Upon the adoption of a bond resolution, a municipal port authority shall have power to incur indebtedness, borrow money and issue its bonds for the purpose of financing the project or of funding or refunding the bonds described therein. Such bonds shall be authorized by the bond resolution and may be issued in 1 or more series and shall bear

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such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates within such maximum rate (not exceeding 6% per annum), be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as the bond resolution may provide. The municipal port authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable (a) exclusively from the income and revenues of the project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the Federal Government, the State or any municipality or a pledge of any income or revenues of the municipal port authority including income or revenues to be received pursuant to grant or lease by the municipal port authority of the use or services of any project owned or controlled by it. This act shall be complete authority for the issuance of bonds by a municipal port authority, and the provisions of any other law shall not apply to the issuance of such bonds.

P.L. 1960, c. 192, § 17, eff. Feb. 15, 1961.

40:68A-46. Sale of bonds; interest

Bonds of a municipal port authority may be sold by the municipal port authority at public or private sale at such price or prices as the municipal port authority shall determine; provided, however, that the interest cost to maturity of the money received for any issue of bonds (computed according to standard tables of bond values) shall not exceed 6% per annum.

P.L. 1960, c. 192, § 18, eff. Feb. 15, 1961.

40:68A-47. Filing copy of bond resolution; publication of notice; limitation of actions

The municipal port authority shall cause a copy of any bond resolution adopted by it to be filed for public inspection in its office and in the office of the clerk of the governing body of the local unit and shall thereupon cause to be published, at least once, in a newspaper published or circulating in the port district a notice stating the fact and date of such adoption and the places where such bond resolution has been so filed for public inspection and also the date of the first publication of such notice and also that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be

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commenced within 20 days after the first publication of such notice. If any such notice shall at any time be published and if no action or proceeding questioning the validity or proper authorization of bonds provided for by the bond resolution referred to in said notice, or the validity of any covenants, agreements or contracts provided for by said bond resolution shall be commenced or instituted within 20 days after the first publication of said notice, then all residents and taxpayers and owners of property in the port district and users of the port system and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceedings, questioning the validity or proper authorization of such bonds, or the validity of any such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

P.L. 1960, c. 192, § 19, eff. Feb. 15, 1961.

40:68A-48. Agreements with bondholders

Any bond resolution of a municipal port authority providing for or authorizing the issuance of any bonds may contain provisions and such municipal port authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in such bond resolution to covenant and agree with the several holders of such bonds, as to:

- (1) the custody, security, use, expenditure or application of the proceeds of the bonds;
- (2) the construction and completion, or replacement, of all or any part of the port system;
- (3) the use, regulation, operation, maintenance, insurance or disposition of all or any part of the port system, or restrictions on the exercise of the powers of the municipal port authority to dispose, or to limit or regulate the use of all or any part of the port system;
- (4) payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;
- (5) the use and disposition of any moneys of the municipal port authority, including revenues (in this act sometimes called "system revenues") derived or to be derived from the operation of all or any part of the port system, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired;
- (6) pledging, setting aside, depositing or trusteeing all or any part of the system revenues or other moneys of the municipal port authority to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses

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of operation or maintenance of the port system, and the powers and duties of any trustee with regard thereto;

(7) the setting aside out of the system revenues or other moneys of the municipal port authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

(8) determination or definition of the system revenues or of the expenses of operation and maintenance of the port system;

(9) the rents, rates, fees, or other charges in connection with or for the use of the port system, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of system revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

(10) the assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the port system or any obligations having or which may have a lien on any part of the system revenues;

(11) limitations on the issuance of additional bonds or any other obligations or on the incurrance of indebtedness of the municipal port authority;

(12) limitations on the powers of the municipal port authority to construct, acquire or operate, or to consent to the construction, acquisition or operation of, any structures, facilities or properties which may compete or tend to compete with the port system;

(13) vesting in a trustee or trustees such property, rights, powers and duties in trust as the municipal port authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 21 of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section 21 of this act or limiting the rights, duties and powers of such trustee;

(14) the procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds of holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

(15) any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on the bonds and to be part of any covenant or contract with the holders of the bonds.

All such provisions of the bond resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the municipal port authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action, suit or proceeding in any court of competent jurisdiction.

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40:68A-49. Default in payment of series bonds; appointment of trustee; powers

(a) If the bond resolution of a municipal port authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of this section, then if there shall be a default in the payment of principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and if any such default shall continue for a period of 30 days, or if the municipal port authority shall fail or refuse to comply with any of the provisions of this act or shall fail or refuse to carry out and perform the terms of any contract with the holders of any such bonds, and if such failure or refusal shall continue for a period of 30 days after written notice to the municipal port authority of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of such series then outstanding by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes provided in this section.

(b) Such trustee may and upon written request of the holders of 25% in aggregate principal amount of the bonds of such series then outstanding shall, in his or its own name:

(1) By any action, or other proceeding, enforce all rights of the holders of such bonds, including the right to require the municipal port authority to charge and collect facility charges adequate to carry out any contract as to, or pledge of, system revenues, and to require the municipal port authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

(2) Bring an action upon all or any part of such bonds or interest coupons or claims appurtenant thereto;

(3) By action, require the municipal port authority to account as if it were the trustee of an express trust for the holders of such bonds;

(4) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; or

(5) Declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the municipal port authority and, if all defaults shall be made good, then with the consent of the holders of 25% of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

(c) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of such series in the enforcement and protection of their rights.

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(d) In any action or proceeding by such trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, shall, if allowed by the court, constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any facility charges and system revenues of the municipal port authority pledged for the payment or security of bonds of such series.

P.L. 1960, c. 192, § 21, eff. Feb. 15, 1961.

40:68A-50. Appointment of receiver; powers and duties

If the bond resolution of a municipal port authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of section 21 of this act and shall further provide in substance that any trustee appointed pursuant to said section or having the powers of such a trustee shall have the powers provided by this section, then such trustee, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled to the appointment of a receiver of the port system, and such receiver may enter upon and take possession of the port system and, subject to any pledge or contract with the holders of such bonds, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the port system and proceed with such acquisition, construction, operation, maintenance or reconstruction which the municipal port authority is under any obligation to do, and operate, maintain and reconstruct the port system and fix, charge, collect, enforce and receive the facility charges and all system revenues thereafter arising subject to any pledge thereof or contract with the holders of such bonds relating thereto and perform the public duties and carry out the contracts and obligations of the municipal port authority in the same manner as the municipal port authority itself might do and under the direction of the court.

P.L. 1960, c. 192, § 22, eff. Feb. 15, 1961.

40:68A-51. Personal liability on bonds; not debt or liability of state, county or municipality

Neither the members of the municipal port authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State, and bonds or other obligations issued by a municipal port authority pursuant to this act shall not be in any way a debt or liability of the State or of any county or municipality and shall not create or constitute any indebtedness, liability or obligation of the State or of any county or municipality, except a municipality which in accordance with section 15 of P.L.1960, c. 192 (C. 40:68A-43) shall have guaranteed payment of principal and interest on the bonds or other obligations. Nothing in this act contained shall be construed to authorize any municipal

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port authority to incur any indebtedness on behalf of or in any way to obligate the State or any county.

P.L. 1960, c. 192, § 23, eff. Feb. 15, 1961. Amended by L.1981, c. 547, § 2.

40:68A-52. Negotiability of bonds

Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said negotiable instruments law.

P.L. 1960, c. 192, § 24, eff. Feb. 15, 1961.

40:68A-53. Real property; acquisition; condemnation

Every municipal port authority is hereby empowered, in its own name but for the local unit, to acquire by purchase, gift, grant or devise and to take for public use real property within the port district, which may be deemed by the municipal port authority to be necessary for its purposes, including public lands and property (hereinafter in this section called "public lands") in which any county, municipality or political subdivision of the State, or public body or agency of such political subdivision has any right, title or interest and to the acquisition of which it shall have consented. Whenever any municipal port authority has determined that it is necessary to take any such real property for port purposes by the exercise of the power of condemnation, as hereinafter provided, it shall prepare 2 copies of diagrams, maps or plans designating the general area in the local unit in which real property is to be acquired and file 1 copy thereof in its office and the other copy thereof in the office of the clerk of the local unit. Such municipal port authority is hereby empowered to acquire and take such real property by condemnation, in the manner provided by chapter 1 of Title 20, Eminent Domain, of the Revised Statutes (R.S. 20:1-1 et seq.) and, to that end, may invoke and exercise in the manner or mode of procedure prescribed in said chapter, either in its own name or in the name of the local unit, all of the powers of such local unit to acquire or take property for public use; provided, however, that, notwithstanding the foregoing or any other provision of this act, no municipal port authority shall institute any proceeding to acquire or take, by condemnation, any real property within the designated area in the local unit referred to above in this section until after the date of filing in the office of the clerk of the local unit of a certified copy of a (a) resolution of the municipal port authority stating the finding of the municipal port authority that it is necessary or convenient to acquire real property in said designated area for port purposes, and (b) resolution of the governing body of the local unit expressing its consent to the acquisition of real property in said designated area.

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P.L. 1960, c. 192, § 25, eff. Feb. 15, 1961.

40:68A-54. Construction or operation of port system; additional powers; relocation of facilities

In addition to other powers conferred by this act or by any other law, and not in limitation thereof, every municipal port authority, in connection with construction or operation of any part of a port system, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (herein called "facilities") of any public utility as defined in section 48:2-13 of the Revised Statutes, in, on, along, over or under any real property of the municipal port authority. Whenever in connection with construction or operation of any part of a port system, any municipal port authority shall determine that it is necessary that any such facilities, which now are, or hereafter may be, located in, on, along, over or under any such real property, should be relocated in such real property, or should be removed therefrom, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the municipal port authority, provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, or new locations, and the cost of any lands or any rights or interest in lands, or any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such property, shall be paid by the municipal port authority and may be included in the cost of such port system. In case of any such relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location.

P.L. 1960, c. 192, § 26, eff. Feb. 15, 1961.

40:68A-55. Aid and co-operation of local units

For the purpose of aiding and co-operating in the planning, undertaking, acquisition, construction or operation of any project of a municipal port authority, the local unit may: (a) acquire real property in its name for any project or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues, or highways to any such project, or partly for such purposes and partly for other municipal purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by such municipality; (b) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake; and (c) do any and all things necessary or

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convenient to aid and co-operate in the planning, undertaking, construction or operation of any such project, and cause services to be furnished to the municipal port authority of the character which such municipality is otherwise empowered to furnish, and to incur the entire expense thereof.

P.L. 1960, c. 192, § 27, eff. Feb. 15, 1961.

40:68A-56. Sale, lease, loan, grant or conveyance to municipal port authority

Any municipality, by ordinance of its governing body, or any other person is hereby empowered, without any referendum or public or competitive bidding to sell, lease, lend, grant or convey to a municipal port authority, or to permit a municipal port authority to use, maintain or operate as part of the port system, any real or personal property owned by it which may be necessary or useful and convenient for the purposes of the municipal port authority and accepted by the municipal port authority. Any such sale, lease, loan, grant, conveyance or permit may be made with or without consideration and for a specified or an unlimited period of time and under any agreement and on any terms and conditions which may be approved by such municipality or other person and which may be agreed to by the municipal port authority in conformity with its contracts with the holders of any bonds. Subject to any such contracts with holders of bonds, the municipal port authority may enter into and perform any and all agreements with respect to property so accepted by it, including agreements for the assumption of principal or interest or both of indebtedness of such municipality or other person or of any mortgage or lien existing with respect to such property or for the operation and maintenance of such property as part of the port system.

P.L. 1960, c. 192, § 28, eff. Feb. 15, 1961.

40:68A-57. Appropriation of money by local unit

The local unit shall have power from time to time, pursuant to ordinance of its governing body, and for such period and upon such terms, with or without consideration, as may be provided in such ordinance and accepted by the municipal port authority to appropriate money for all or any part of the cost of acquisition or construction of any project of the municipal port authority.

P.L. 1960, c. 192, § 29, eff. Feb. 15, 1961.

40:68A-58. Contracts for use or lease of port system

Any municipal port authority and any person, may enter into a contract or contracts provided for or relating to the use or lease of all or any part of the port system of the municipal port authority and the cost and expense of such use. Any such contract may provide for the payment to the municipal port authority annually or otherwise of such

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sum or sums of money for such use, computed at fixed amounts or by a formula or in any other manner. Any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved and agreed to by the municipal port authority in conformity with its contracts with the holders of any bonds. Subject to any such contracts with the holders of bonds, the municipal port authority is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract.

P.L. 1960, c. 192, § 30, eff. Feb. 15, 1961.

40:68A-59. Mortgage, pledge or disposal of port system; exceptions

Except as otherwise expressly herein above provided with respect to the right of the municipal port authority to grant by franchise, lease or otherwise the use of any project owned or controlled by it, the municipal port authority shall not mortgage, pledge, encumber or otherwise dispose of any part of the port system, except that the municipal port authority may dispose of such part or parts thereof as may be no longer necessary for the purposes of the municipal port authority. The provisions of this section shall be deemed to constitute a part of the contract with the holder of any bonds.

P.L. 1960, c. 192, § 31, eff. Feb. 15, 1961.

40:68A-60. Exemption from execution

All property of a municipal port authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against a municipal port authority be a charge or lien upon its property provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by a municipal port authority on its system revenues or other moneys.

P.L. 1960, c. 192, § 32, eff. Feb. 15, 1961.

40:68A-61. Payments in lieu of taxes

Every municipal port authority and every municipality in which any property of the municipal port authority is located are hereby authorized and empowered to enter into agreements with respect to the payment by the municipal port authority to such municipality of annual sums of money in lieu of taxes on such property in amount not less than the amount of taxes last paid on such property prior to its acquisition by the municipal port authority, or such other agreed amount computed on the basis of the assessed value of real property without improvements, and each such municipal port authority is empowered to make such payments and each such municipality is

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empowered to accept such payments and to apply them in the manner in which taxes may be applied in such municipality.

P.L. 1960, c. 192, § 33, eff. Feb. 15, 1961.

40:68A-62. Bonds as legal investments

Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to this act, and such bonds shall be authorized security for any and all public deposits.

P.L. 1960, c. 192, § 34, eff. Feb. 15, 1961.

40:68A-63. Tax exemptions

Every port system and all other properties of a municipal port authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and such bonds, and the interest thereon and the income therefrom, and all facility charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes and taxes on transfers by or in contemplation of death.

P.L. 1960, c. 192, § 35, eff. Feb. 15, 1961.

40:68A-64. Pledge of state to bondholders

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to a bond resolution of a municipal port authority adopted pursuant to this act that the State will not limit or alter the rights hereby vested in the municipal port authority to acquire, construct, maintain, reconstruct and operate its port system, or to fix, establish, charge and collect its facility charges and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, so as to in any way impair the rights or remedies of such holders, and will not modify in any way

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the exemptions from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

P.L. 1960, c. 192, § 36, eff. Feb. 15, 1961.

40:68A-65. Banks authorized to give undertaking; deposits

All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any municipal port authority a good and sufficient undertaking with such sureties as shall be approved by the municipal port authority to the effect that such bank or banking institution as herein before described shall faithfully keep and pay over to the order of or upon the warrant of the municipal port authority or its authorized agent all such funds as may be deposited with it by the municipal port authority and agreed interest thereon, at such times or upon such demands as may be agreed with the municipal port authority or in lieu of such sureties, deposit with the municipal port authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the municipal port authority may approve. The deposits of the municipal port authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the municipal port authority and such bank or banking institution.

P.L. 1960, c. 192, § 37, eff. Feb. 15, 1961.

40:68A-66. Annual audit

Each municipal port authority shall cause an annual audit of its accounts to be made, and for this purpose it shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the municipal port authority within 4 months after the close of the fiscal year of the municipal port authority and a certified duplicate copy thereof shall be filed in the office of the Division of Local Government in the Department of the Treasury and in the office of the chief financial officer of the local unit within 5 days after the original report is filed with the municipal port authority.

P.L. 1960, c. 192, § 38, eff. Feb. 15, 1961.

40:68A-67. Filing certified copies of bond resolutions and annual budgets

Each municipal port authority shall file a certified copy of each bond resolution adopted by it in the office of the Division of Local Government in the Department of the Treasury, together with a certified summary of the dates, amounts, maturities and interest

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rates of all bonds to be issued pursuant thereto prior to the issuance of any such bonds. Upon the adoption of each annual budget of a municipal port authority or amendment thereof, a certified copy thereof shall be filed forthwith in the office of said Division of Local Government.

P.L. 1960, c. 192, § 39, eff. Feb. 15, 1961.

40:68A-68. Liberal construction

This act shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance of each and every act and thing herein authorized, and a municipal port authority shall not be subject to, or constitute a municipality or agency or component of a municipality subject to, the provisions of chapter 50 or any other provisions of Title 40 of the Revised Statutes, or be subject to regulation as to its facility charges by any officer, board, agency, commission or other office of the State.

P.L. 1960, c. 192, § 40, eff. Feb. 15, 1961.

40:68A-69. Partial invalidity

If any section, subsection, clause or provision of this act shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective, it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, clause or provision of this act in any 1 or more instances or under any 1 or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

P.L. 1960, c. 192, § 41, eff. Feb. 15, 1961.